

Appl. No. 10/720,635
Docket No. GP-302389/GM2-0080

REMARKS / ARGUMENTS

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Status of Claims

Claims 1-26 are pending in the application. Claim 23 stands rejected. Claims 1-22 and 26 are allowed. Claims 24 and 25 are objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's notation of the allowable claims. Applicant has amended Claim 23, and has added new Claim 27, leaving Claims 1-27 for consideration upon entry of the present Amendment.

Applicant appreciates the Examiner's confirmation during a telephone conversation with Attorney David Arnold on December 7, 2006, that previously withdrawn Claims 17 and 18 have been rejoined in view of their dependency upon an allowable claim. Accordingly, Claims 17 and 18 have been classified as "previously presented" in the claim listing set forth above.

Applicant respectfully submits that the rejections under 35 U.S.C. §102(b) have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §102(b)

Claim 23 stands rejected under 35 U.S.C. §102(b) as being anticipated by Chen et al. (U.S. Patent No. 5,538,265, hereinafter Chen).

Claim 23 is rejected under 35 U.S.C. §102(b) as being anticipated by Hawkins (U.S. Patent No. 5,358,268, hereinafter Hawkins).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he

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identical invention must be shown in as complete detail as is contained in the *** claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements “arranged as in the claim.” *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicant has amended Claim 23 to now recite, inter alia,

“A method of operating a step of a vehicle, the method comprising:

only partially opening a door of the vehicle;

via the only partially opening action of the door, and in response to the step being in operable mechanical communication with the door, mechanically rotating the step vertically from a retracted substantially vertical position to a fully deployed substantially horizontal position, the rotating being in opposition to a bias force biasing the step in the retracted position; and

locking the step in the deployed position.”

No new matter has been added by these amendments as antecedent support may be found in the specification as originally filed, such as at Paragraphs [0011] and [0015], for example.

Dependent claims inherit all of the limitations of the respective parent claim.

Here, Applicant has amended Claim 23 to be more aligned with previously amended Claim 1, now allowed.

In comparing Chen with amended Claim 23, Applicant finds Chen to disclose a retractable step that is deployed under the influence of an electrical switch 30, a pneumatic cylinder 65, and air supply in system 10 (col. 3, line 65 through col. 4, line 9), which is substantially different from the claimed invention being in operable mechanical communication with the door (absent electrical, pneumatic, or motorized assistance). Accordingly, Applicant submits that Chen is absent the limitation of “only partially

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opening a door of the vehicle; via the only partially opening action of the door, and in response to the step being in operable mechanical communication with the door, mechanically rotating the step vertically from a retracted substantially vertical position to a fully deployed substantially horizontal position”.

In comparing Hawkins with amended Claim 23, Applicant finds Hawkins to disclose a retractable step that opens only “a short distance” in response to “actuating electric motor drive circuitry (not shown) which drives the electric motors briefly in the direction to cause the side step to open a short distance, sufficient to allow the front door to clear the top of the side step as the door is initially swung upward.” Col. 4, lines 23-30. As such, Applicant finds Hawkins to be absent a fully deployed step in response to the door being only partially open. Applicant also finds Hawkins to disclose a retractable step that is operable via an electric drive motor, which is substantially different from the claimed invention being in operable mechanical communication with the door (absent electrical, pneumatic, or motorized assistance).

Accordingly, Applicant submits that Chen and Hawkins do not separately disclose all of the claimed elements arranged as in the claim, and absent anticipatory disclosure in either Chen or Hawkins of each and every element of the claimed invention arranged as in the claim, neither Chen or Hawkins can be anticipatory.

In view of the amendment and foregoing remarks, Applicant submits that Chen and Hawkins do not separately disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner’s rejections under 35 U.S.C. §102(b) have been traversed, and requests that the Examiner reconsider and withdraw of this rejection.

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Regarding New Claim 27

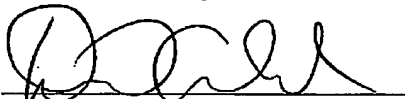
Applicant has added new Claim 27 to capture previously disclosed but unclaimed subject matter. No new matter has been added as antecedent support can be found in the application as originally filed, such as at Paragraph [0011], for example.

In view of the similarity between the limitations of Claim 27 and allowed Claim 14, Applicant submits that Claim 27 is allowable, and respectfully requests entry and notice thereof.

If a communication with Applicant's Attorneys would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 06-1130. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,
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